

Proposition 1A (cont.)

except that the Legislature may, but need not, provide ~~such~~ a subvention of funds for the following mandates:

(~~a~~)

(1) Legislative mandates requested by the local agency affected ~~‡~~.

(~~b~~)

(2) Legislation defining a new crime or changing an existing definition of a crime; ~~or~~.

(~~c~~)

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) (1) Except as provided in paragraph (2), for the 2005–06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) Payable claims for costs incurred prior to the 2004–05 fiscal year that have not been paid prior to the 2005–06 fiscal year may be paid over a term of years, as prescribed by law.

(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.

(c) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

Fourth—That the people find and declare that this measure and the Taxpayers and Public Safety Protection Act, which appears as Proposition 65 on the November 2, 2004, general election ballot (hereafter Proposition 65) both relate to local government, including matters concerning tax revenues and reimbursement for the cost of state mandates, in a comprehensive and substantively conflicting manner. Because this measure is intended to be a comprehensive and competing alternative to Proposition 65, it is the intent of the people that this measure supersede in its entirety Proposition 65, if this measure and Proposition 65 both are approved and this measure receives a higher number of affirmative votes than Proposition 65. Therefore, in the event that this measure and Proposition 65 both are approved and this measure receives a higher number of affirmative votes, none of the provisions of Proposition 65 shall take effect.

Proposition 65

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends an article of, and adds an article to, the California Constitution; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT

SECTION 1. Short Title

These amendments to the California Constitution shall be known and may be cited as the Local Taxpayers and Public Safety Protection Act.

SECTION 2. Findings and Purposes

(a) The people of the State of California find that restoring local control over local tax dollars is vital to insure that local tax dollars are used to provide critical local services, including, but not limited to, police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance. Reliable funding for these services is essential for the security, well-being, and quality of life of all Californians.

(b) For many years, the Legislature has taken away local tax dollars used by local governments so that the state could control those local tax dollars. In fact, the Legislature has been taking away billions of local tax dollars each year, forcing local governments to either raise local fees or taxes to maintain services, or cut back on critically needed local services.

(c) The Legislature's diversion of local tax dollars from local governments harms local governments' ability to provide such specific services as police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance.

(d) In recognition of the harm caused by diversion of local tax dollars and the importance placed on voter control of major decisions concerning government finance, and consistent with existing provisions of the California Constitution that give the people the right to vote on fiscal changes, the people of the State of California want the right to vote upon actions by the state government that take local tax dollars from local governments.

(e) The Local Taxpayers and Public Safety Protection Act is designed to insure that the people of the State of California shall have the right to approve or reject the actions of state government to take away local revenues that fund vitally needed local services.

(f) The Local Taxpayers and Public Safety Protection Act strengthens the requirement that if the state mandates local governments to implement

new or expanded programs, then the state shall reimburse local governments for the cost of those programs.

(g) The Local Taxpayers and Public Safety Protection Act does not amend or modify the School Funding Initiative, Proposition 98 (Section 8 of Article XVI of the California Constitution).

(h) Therefore, the people declare that the purposes of this act are to:

(1) Require voter approval before the Legislature removes local tax dollars from the control of local government, as described in this measure.

(2) Insure that local tax dollars are dedicated to local governments to fund local public services.

(3) Insure that the Legislature reimburses local governments when the state mandates local governments to assume more financial responsibility for new or existing programs.

(4) Prohibit the Legislature from deferring or delaying annual reimbursement to local governments for state-mandated programs.

SECTION 3. Article XIII E is added to the California Constitution, to read:

ARTICLE XIII E

LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT

SECTION 1. Statewide Voter Approval Required

(a) Approval by a majority vote of the electorate, as provided for in this section, shall be required before any act of the Legislature takes effect that removes the following funding sources, or portions thereof, from the control of any local government:

(1) Reduces, or suspends or delays the receipt of, any local government's proportionate share of the local property tax when the Legislature exercises its power to apportion the local property tax; or requires any local government to remit local property taxes to the State, a state-created fund, or, without the consent of the affected local governments, to another local government.

(2) Reduces, or delays or suspends the receipt of, the Local Government Base Year Fund to any local government, without appropriating funds to offset the reduction, delay, or suspension in an equal amount.

(3) Restricts the authority to impose, or changes the method of distributing, the local sales tax.

(4) Reduces, or suspends or delays the receipt of, the 2003 Local Government Payment Deferral.

(5) Fails to reinstate the suspended Bradley-Burns Uniform Local Sales and Use Tax rate in accordance with Section 97.68 of the Revenue

Proposition 65 (cont.)

and Taxation Code, as added by Chapter 162 of the Statutes of 2003; or reduces any local government's allocation of the property tax required by Section 97.68 of the Revenue and Taxation Code while the sales tax rate is suspended.

(b) Prior to its submission to the electorate, an act subject to voter approval under this section must be approved by the same vote of the Legislature as is required to enact a budget bill and shall not take effect until approved by a majority of those voting on the measure at the next statewide election in accordance with subdivision (c).

(c) When an election is required by this section, the Secretary of State shall present the following question to the electorate: "Shall that action taken by the Legislature in [Chapter ____ of the Statutes of ____], which affects local revenues, be approved?"

SEC. 2. Definitions

(a) "Local government" means any city, county, city and county, or special district.

(b) "Local Government Base Year Fund" means the amount of revenue appropriated in the 2002–03 fiscal year in accordance with Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, adjusted annually based upon the change in assessed valuation of vehicles that are subject to those provisions of law. In the event that the fees imposed by those provisions of law are repealed, then the fund shall be adjusted annually on July 1 by an amount not less than the percentage change in per capita personal income and the change in population, as calculated pursuant to Article XIII B.

(c) "2003 Local Government Payment Deferral" means the amount of revenues required to be transferred to local government from the General Fund specified in subparagraph (D) of paragraph (3) of subdivision (a) of Section 10754 of the Revenue and Taxation Code in effect on August 11, 2003.

(d) "Local property tax" means any local government's January 1, 2003, proportionate share of ad valorem taxes on real property and tangible personal property apportioned pursuant to the Legislature's exercise of its power to apportion property taxes as specified in Section 1 of Article XIII A. "Local property tax" also means any local government's allocation of the ad valorem tax on real property and tangible personal property pursuant to Section 16 of Article XVI.

(e) "Local sales tax" means any sales and use tax imposed by any city, county, or city and county pursuant to the terms of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) in accordance with the law in effect on January 1, 2003.

(f) "Special district" means an agency of the State, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions with limited geographic boundaries, including redevelopment agencies, but not including school districts, community college districts, or county offices of education.

(g) "State" means the State of California.

SEC. 3. Interim Measures

(a) The operation and effect of any statute, or portion thereof, enacted between November 1, 2003, and the effective date of this article, that would have required voter approval pursuant to Section 1 if enacted on or after the effective date of this act (the "interim statute"), shall be suspended on that date and shall have no further force and effect until the date the interim statute is approved by the voters at the first statewide election following the effective date of this article in the manner specified in Section 1. If the interim statute is not approved by the voters, it shall have no further force and effect.

(b) If the interim statute is approved by the voters, it shall nonetheless have no further force and effect during the period of suspension; provided, however, that the statute shall have force and effect during the period of suspension if the interim statute or a separate act of the Legislature appropriates funds to affected local governments in an amount which is not less than the revenues affected by the interim statute.

(c) A statute or other measure that is enacted by the Legislature and approved by the voters between November 1, 2003, and the effective date of this article is not an interim statute within the meaning of this section.

SECTION 4. Section 6 of Article XIII B of the California Constitution is amended to read:

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall annually provide a subvention of funds to reimburse such local

government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

(~~1~~) (1) Legislative mandates requested by the local agency affected ~~;~~.

(~~2~~) (2) Legislation defining a new crime or changing an existing definition of a crime ~~;~~ or.

(~~3~~) (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) The annual subvention of funds required by this section shall be transmitted to the local government within 180 days of the effective date of the statute or regulation or order by a state officer or agency that mandates a new program or higher level of service, or within 180 days of a final adjudication that a subvention of funds is required pursuant to this section. For purposes of this section, the Legislature or any state agency or officer mandates a new program or higher level of service when it creates a new program, requires services not previously required to be provided, increases the frequency or duration of required services, increases the number of persons eligible for services, or transfers to local government complete or partial financial responsibility for a program for which the State previously had complete or partial financial responsibility.

(c) If, during the fiscal year in which a claim for reimbursement is filed for a subvention of funds, the Legislature does not appropriate a subvention of funds that provides full reimbursement as required by subdivision (a), or does not appropriate a subvention of funds that provides full reimbursement as part of the state budget act in the fiscal year immediately following the filing of that claim for reimbursement, then a local government may elect one of the following options:

(1) Continue to perform the mandate. The local government shall receive reimbursement for its costs to perform the mandate through a subsequent appropriation and subvention of funds.

(2) Suspend performance of the mandate during all or a portion of the fiscal year in which the election permitted by this subdivision is made. The local government may continue to suspend performance of the mandate during all or a portion of subsequent fiscal years until the fiscal year in which the Legislature appropriates the subvention of funds to provide full reimbursement as required by subdivision (a). A local government shall receive reimbursement for its costs for that portion of the fiscal year during which it performed the mandate through a subsequent appropriation and subvention of funds.

The terms of this subdivision do not apply to, and a local government may not make the election provided for in this subdivision for, a mandate that either requires a local government to provide or modify any form of protection, right, benefit, or employment status for any local government employee or retiree, or provides or modifies any procedural or substantive right for any local government employee or employee organization, arising from, affecting, or directly relating to future, current, or past local government employment.

(d) For purposes of this section, "mandate" means a statute, or action or order of any state agency, which has been determined by the Legislature, any court, or the Commission on State Mandates or its designated successor, to require reimbursement pursuant to this section.

SECTION 5. Construction

(a) This measure shall be liberally construed to effectuate its purposes, which include providing adequate funds to local government for local services, including, but not limited to, such services as police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance.

(b) This measure shall not be construed either to alter the apportionment of the ad valorem tax on real property pursuant to Section 1 of Article XIII A of the California Constitution by any statute in effect prior to January 1, 2003, or to prevent the Legislature from altering that apportionment in compliance with the terms of this measure.

(c) Except as provided in Section 3 of Article XIII E of the California Constitution as added by Section 3 of this act, the provisions of Section 1 of Article XIII E of the California Constitution as added by Section 3 of this act apply to all statutes adopted on or after the effective date of this act.

SECTION 6. If any part of this measure or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications that reasonably can be given effect without the invalid provision or application.